



Rep. Jim Sacia

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1 AMENDMENT TO SENATE BILL 1014

2 AMENDMENT NO. _____. Amend Senate Bill 1014 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Drug Paraphernalia Control Act is amended
5 by changing Sections 2 and 4 as follows:

6 (720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

7 Sec. 2. As used in this Act, unless the context otherwise
8 requires:

9 (a) The term "cannabis" shall have the meaning ascribed to
10 it in Section 3 of the Cannabis Control Act, as if that
11 definition were incorporated herein.

12 (b) The term "controlled substance" shall have the meaning
13 ascribed to it in Section 102 of the Illinois Controlled
14 Substances Act, as if that definition were incorporated herein.

15 (c) "Deliver" or "delivery" means the actual, constructive
16 or attempted transfer of possession, with or without

1 consideration, whether or not there is an agency relationship.

2 (d) "Drug paraphernalia" means all equipment, products and
3 materials of any kind, other than methamphetamine
4 manufacturing materials as defined in Section 10 of the
5 Methamphetamine Control and Community Protection Act, which
6 are intended to be used unlawfully in planting, propagating,
7 cultivating, growing, harvesting, manufacturing, compounding,
8 converting, producing, processing, preparing, testing,
9 analyzing, packaging, repackaging, storing, containing,
10 concealing, injecting, ingesting, inhaling or otherwise
11 introducing into the human body cannabis or a controlled
12 substance in violation of the Cannabis Control Act, the
13 Illinois Controlled Substances Act, or the Methamphetamine
14 Control and Community Protection Act. It includes, but is not
15 limited to:

16 (1) kits intended to be used unlawfully in
17 manufacturing, compounding, converting, producing,
18 processing or preparing cannabis or a controlled
19 substance;

20 (2) isomerization devices intended to be used
21 unlawfully in increasing the potency of any species of
22 plant which is cannabis or a controlled substance;

23 (3) testing equipment intended to be used unlawfully in
24 a private home for identifying or in analyzing the
25 strength, effectiveness or purity of cannabis or
26 controlled substances;

1 (4) diluents and adulterants intended to be used
2 unlawfully for cutting cannabis or a controlled substance
3 by private persons;

4 (5) objects intended to be used unlawfully in
5 ingesting, inhaling, or otherwise introducing cannabis,
6 cocaine, hashish, or hashish oil into the human body
7 including, where applicable, the following items:

8 (A) water pipes;

9 (B) carburetion tubes and devices;

10 (C) smoking and carburetion masks;

11 (D) miniature cocaine spoons and cocaine vials;

12 (E) carburetor pipes;

13 (F) electric pipes;

14 (G) air-driven pipes;

15 (H) chillums;

16 (I) bonges;

17 (J) ice pipes or chillers;

18 (5.5) products marketed and sold for a lawful purpose,
19 which are intended to be used lawfully, but which may be
20 misused for the unlawful purpose of ingesting, inhaling, or
21 otherwise introducing cannabis, cocaine, hashish, or
22 hashish oil into the human body including, where
23 applicable, the following items:

24 (A) individual cigar wrappers, known as wraps,
25 blunt wraps, or roll your own cigar wraps, whether in
26 the form of a sheet, tube or cone, that consist in

1 whole or in part of reconstituted tobacco leaf or
2 flavored tobacco leaf;

3 (B) cored, hollowed out, or split cigars, but not
4 including an intact cigar still in its original
5 manufacturer packaging;

6 (C) cigarette-rolling papers, also known as
7 cigarette papers or as roll your own cigarette papers,
8 including but not by way of limitation wired cigarette
9 papers; and

10 (D) tobacco pipes; and

11 (6) any item whose purpose, as announced or described
12 by the seller, is for use in violation of this Act.

13 (Source: P.A. 93-526, eff. 8-12-03; 94-556, eff. 9-11-05.)

14 (720 ILCS 600/4) (from Ch. 56 1/2, par. 2104)

15 Sec. 4. Exemptions. This Act does not apply to:

16 (a) Items used in the preparation, compounding,
17 packaging, labeling, or other use of cannabis or a
18 controlled substance as an incident to lawful research,
19 teaching, or chemical analysis and not for sale.

20 (b) Items historically and customarily used in
21 connection with the planting, propagating, cultivating,
22 growing, harvesting, manufacturing, compounding,
23 converting, producing, processing, preparing, testing,
24 analyzing, packaging, repackaging, storing, containing,
25 concealing, injecting, ingesting, or inhaling of tobacco

1 or any other lawful substance.

2 Items exempt under this subsection include, but are not
3 limited to, garden hoes, rakes, sickles, baggies, ~~tobacco~~
4 ~~pipes,~~ and cigarette-rolling papers sold with an
5 accompanying loose cigarette tobacco, pre-formed paper
6 cigarette tubes used by consumers for making cigarettes,
7 reconstituted tobacco wrapper or tobacco leaf wrap that is
8 used in the manufacturing of a cigar, cigar wrappers
9 marketed or sold in conjunction with an accompanying loose
10 filler cigar tobacco and intact cigars still in their
11 original manufacturer packaging.

12 (c) Items listed in Section 2 of this Act which are
13 used for decorative purposes, when such items have been
14 rendered completely inoperable or incapable of being used
15 for any illicit purpose prohibited by this Act.

16 (d) A person who is legally authorized to possess
17 hypodermic syringes or needles under the Hypodermic
18 Syringes and Needles Act.

19 In determining whether or not a particular item is exempt under
20 this Section, the trier of fact should consider, in addition to
21 all other logically relevant factors, the following:

22 (1) the general, usual, customary, and historical use
23 to which the item involved has been put;

24 (2) expert evidence concerning the ordinary or
25 customary use of the item and the effect of any peculiarity
26 in the design or engineering of the device upon its

1 functioning;

2 (3) any written instructions accompanying the delivery
3 of the item concerning the purposes or uses to which the
4 item can or may be put;

5 (4) any oral instructions provided by the seller of the
6 item at the time and place of sale or commercial delivery;

7 (5) any national or local advertising concerning the
8 design, purpose or use of the item involved, and the entire
9 context in which such advertising occurs;

10 (6) the manner, place and circumstances in which the
11 item was displayed for sale, as well as any item or items
12 displayed for sale or otherwise exhibited upon the premises
13 where the sale was made;

14 (7) whether the owner or anyone in control of the
15 object is a legitimate supplier of like or related items to
16 the community, such as a licensed distributor or dealer of
17 tobacco products;

18 (8) the existence and scope of legitimate uses for the
19 object in the community.

20 Notwithstanding the foregoing, there shall be a rebuttable
21 presumption that the products identified in clauses (A) through
22 (D) of subparagraph (5.5) of paragraph (d) of Section 2 of this
23 Act are not drug paraphernalia when marketed or sold in
24 conjunction with, or otherwise found or discovered solely in
25 the presence of, tobacco; provided however, that there shall be
26 rebuttable presumption that any product or object identified in

1 Section 2 is drug paraphernalia if the product or object
2 either: (1) contains cannabis or the residue thereof or a
3 controlled substance or the residue thereof; or (2) is found or
4 discovered, or both, with or in close proximity to cannabis or
5 a controlled substance.

6 (Source: P.A. 95-331, eff. 8-21-07.)

7 Section 10. The Tobacco Accessories and Smoking Herbs
8 Control Act is amended by changing Sections 3, 4, and 5 as
9 follows:

10 (720 ILCS 685/3) (from Ch. 23, par. 2358-3)

11 Sec. 3. Definitions. The following definitions shall apply
12 to this Act:

13 (a) "Tobacco accessories" shall mean cigarette papers,
14 pipes, holders of smoking materials of all types, cigarette
15 rolling machines, and other items, designed primarily for the
16 smoking or ingestion of tobacco products or of substances made
17 illegal under any statute or of substances whose sale, gift,
18 barter, or exchange is made unlawful under this Act.

19 (b) "Smoking herbs" shall mean all substances of plant
20 origin and their derivatives, including but not limited to
21 broom, calea, California poppy, damiana, hops, ginseng,
22 lobelia, jimson weed and other members of the Datura genus,
23 passion flower and wild lettuce, which are processed or sold
24 primarily for use as smoking materials.

1 (c) "Bidi cigarette" means a product that contains tobacco
2 that is wrapped in temburni or tendu leaf or that is wrapped in
3 any other material identified by rules of the Department of
4 Public Health that is similar in appearance or characteristics
5 to the temburni or tendu leaf.

6 (d) "Cigar wraps" shall mean individual cigar wrappers,
7 known as wraps, blunt wraps, or roll your own cigar wraps,
8 whether in the form of a sheet, tube or cone, that consists in
9 whole or in part of reconstituted tobacco leaf or flavored
10 tobacco leaf.

11 (Source: P.A. 91-734, eff. 1-1-01.)

12 (720 ILCS 685/4) (from Ch. 23, par. 2358-4)

13 Sec. 4. Offenses.

14 (a) Sale to minors. No person shall knowingly sell, barter,
15 exchange, deliver or give away or cause or permit or procure to
16 be sold, bartered, exchanged, delivered, or given away tobacco
17 accessories or smoking herbs to any person under 18 years of
18 age.

19 (a-5) Sale of bidi cigarettes. No person shall knowingly
20 sell, barter, exchange, deliver, or give away a bidi cigarette
21 to another person, nor shall a person cause or permit or
22 procure a bidi cigarette to be sold, bartered, exchanged,
23 delivered, or given away to another person.

24 (a-6) Sale of cigar wraps. No person shall knowingly sell,
25 barter, exchange, deliver or give away or cause or permit or

1 procure to be sold, bartered, exchanged, delivered, or given
2 away cigar wraps to any person under 18 years of age.

3 (b) Sale of cigarette paper. No person shall knowingly
4 offer, sell, barter, exchange, deliver or give away cigarette
5 paper or cause, permit, or procure cigarette paper to be sold,
6 offered, bartered, exchanged, delivered, or given away except
7 from premises or an establishment where other tobacco products
8 are sold. For purposes of this Section, "tobacco products"
9 means cigarettes, cigars, smokeless tobacco, or tobacco in any
10 of its forms.

11 (c) Sale of cigarette paper from vending machines. No
12 person shall knowingly offer, sell, barter, exchange, deliver
13 or give away cigarette paper or cause, permit, or procure
14 cigarette paper to be sold, offered, bartered, exchanged,
15 delivered, or given away by use of a vending or coin-operated
16 machine or device. For purposes of this Section, "cigarette
17 paper" shall not include any paper that is incorporated into a
18 product to which a tax stamp must be affixed under the
19 Cigarette Tax Act or the Cigarette Use Tax Act.

20 (d) Use of identification cards. No person in the
21 furtherance or facilitation of obtaining smoking accessories,
22 cigar wraps, and smoking herbs shall display or use a false or
23 forged identification card or transfer, alter, or deface an
24 identification card.

25 (e) Warning to minors. Any person, firm, partnership,
26 company or corporation operating a place of business where

1 tobacco accessories, cigar wraps, and smoking herbs are sold or
2 offered for sale shall post in a conspicuous place upon the
3 premises a sign upon which there shall be imprinted the
4 following statement, "SALE OF TOBACCO ACCESSORIES, CIGAR
5 WRAPS, AND SMOKING HERBS TO PERSONS UNDER EIGHTEEN YEARS OF AGE
6 OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS
7 PROHIBITED BY LAW". The sign shall be printed on a white card
8 in red letters at least one-half inch in height.

9 (Source: P.A. 91-734, eff. 1-1-01.)

10 (720 ILCS 685/5) (from Ch. 23, par. 2358-5)

11 Sec. 5. Penalty.

12 (a) Any person who shall knowingly violate, or shall
13 knowingly cause the violation of any provision of this Act
14 other than subsection (a-5) or (a-6) of Section 4 shall be
15 guilty of a Class C misdemeanor.

16 (b) Any person who knowingly violates or knowingly causes
17 the violation of subsection (a-5) of Section 4 is guilty of a
18 petty offense for which the offender may be fined an amount as
19 follows:

20 (1) For a first offense, not less than \$100 and not
21 more than \$500.

22 (2) For a second offense within a 2-year period, not
23 less than \$250 and not more than \$500.

24 (3) For a third or subsequent offense within a 2-year
25 period, not less than \$500 and not more than \$1,000.

1 (c) Any person who knowingly violates or knowingly causes
2 the violation of subsection (a-6) of Section 4 is guilty of a
3 Class C misdemeanor for a first offense, a Class B misdemeanor
4 for a second offense within a 2-year period, and a Class A
5 misdemeanor for a third or subsequent offense within a 3-year
6 period.

7 (Source: P.A. 91-734, eff. 1-1-01.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".